

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
Civ. No. 7:16-cv-00123-D

BETHANY LANEY SCHILLING,)
Plaintiff,)
v.) ORDER
ANDREW SAUL,)
Commissioner of Social Security,)
Defendant.)

Plaintiff's counsel filed a motion for approval of attorney's fees under section 206(b) of the Social Security Act, 42 U.S.C. § 406(b), in the amount of \$41,246.00. Attorney's fees under section 206(b) are paid from past-due benefits awarded to a successful claimant. 42 U.S.C. § 406(b). Plaintiff has previously been awarded attorney's fees under the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, in the amount of \$4,881.25 (ECF No. 28).

Defendant filed a response, stating that under *Gisbrecht v. Barnhart*, 535 U.S. 789 (2002), it is the duty of the Court to determine a reasonable fee.

It is ORDERED that Plaintiff's counsel be awarded fees under 42 U.S.C. § 406(b) in the amount of \$ 35,000, and refund to Plaintiff the smaller award between this amount and the EAJA award.

SO ORDERED, this 22 day of October, 2019.

J. Dever
JAMES C. DEVER III
United States District Judge